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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-119]

Certain Vertical Shaft Engines between 225cc and 999cc, and Parts Thereof from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable February 4, 2020

FOR FURTHER INFORMATION CONTACT: Leo Ayala, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3945.

SUPPLEMENTARY INFORMATION:

The Petition

On January 15, 2020, the U.S. Department of Commerce (Commerce) received an antidumping duty (AD) petition concerning imports of certain vertical shaft engines between 225cc and 999cc, and parts thereof (vertical shaft engines) from the People's Republic of China (China), filed in proper form on behalf of the Coalition of American Vertical Engine Producers (the petitioner or the Coalition).<sup>1</sup> The Petition was accompanied by a countervailing duty (CVD) petition concerning imports of vertical shaft engines from China.

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<sup>1</sup> See Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties on Certain Vertical Shaft Engines between 225cc and 999cc, and Parts Thereof from the People's Republic of China," dated January 15, 2020 (the Petition).

On January 17, 2020, Commerce requested supplemental information pertaining to certain aspects of the Petition,<sup>2</sup> to which the petitioner filed its response on January 22, 2020.<sup>3</sup>

On January 27, 2020, Commerce had a phone conversation with the petitioner requesting that it address certain issues.<sup>4</sup> The petitioner filed responses to these requests on January 29, 2020.<sup>5</sup>

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of vertical shaft engines from China are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing vertical shaft engines in the United States. Consistent with section 732(b)(1) of the Act, the Petition is accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry, because the petitioner is an interested party, as defined in sections 771(9)(C) and (F) of the Act.

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<sup>2</sup> See Commerce's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of certain vertical shaft engines between 225cc and 999cc, and parts thereof from the People's Republic of China: Supplemental Questions Concerning Volume II," dated January 17, 2020.

<sup>3</sup> See Petitioner's Letter, "Responses to Supplemental Questions Concerning Volume II of the Petitions for the Imposition of Antidumping and Countervailing Duties Pursuant to Sections 701 and 731 of the Tariff Act of 1930, As Amended on Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China," dated January 22, 2020 (AD Supplement); *see also* Petitioner's Letter, "Responses to Supplemental Questions Concerning Volume I of the Petitions for the Imposition of Antidumping and Countervailing Duties Pursuant to Sections 701 and 731 of the Tariff Act of 1930, As Amended on Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China," dated January 22, 2020 (General Issues Supplement).

<sup>4</sup> See Memorandum, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from The People's Republic of China: Call to Counsel," dated January 27, 2020.

<sup>5</sup> See Petitioner's Letter, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China: Responses to Second Supplemental Questions Concerning Volume II of the Petitions," dated January 29, 2020 (AD Second Supplement); *see also* Petitioner's Letter, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China: Responses to Second Supplemental Questions Concerning Volume I of the Petitions," dated January 29, 2020 (Second General Issues Supplement).

Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested AD investigation.<sup>6</sup>

#### Period of Investigation

Because China is a non-market economy (NME) country, pursuant to 19 CFR 351.204(b)(1), and because the Petition was filed on January 15, 2020, the period of investigation (POI) is July 1, 2019 through December 31, 2020.

#### Scope of the Investigation

The merchandise covered by this investigation is vertical shaft engines from China. For a full description of the scope of this investigation, *see* the appendix to this notice.

#### Comments on Scope of the Investigation

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).<sup>7</sup> Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,<sup>8</sup> all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on February 24, 2020, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on March 5, 2020, which is 10 calendar days from the initial comment deadline.<sup>9</sup>

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<sup>6</sup> See "Determination of Industry Support for the Petition" section, *infra*.

<sup>7</sup> See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

<sup>8</sup> See 19 CFR 351.102(b)(21) (defining "factual information").

<sup>9</sup> See 19 CFR 351.303(b).

Commerce requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All such comments must also be filed on the record of the concurrent AD and CVD investigations.

#### Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).<sup>10</sup> An electronically filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

#### Comments on Product Characteristics for AD Questionnaires

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of vertical shaft engines to be reported in response to Commerce's AD questionnaire. This information will be used to identify the key physical characteristics of the

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<sup>10</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

subject merchandise in order to report the relevant factors of production (FOPs) accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they believe are relevant to the development of an accurate list of physical characteristics. In order to consider the suggestions of interested parties in developing and issuing the AD questionnaire, all comments must be filed by 5:00 p.m. ET on February 24, 2020, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on March 5, 2020, which is 10 calendar days from the initial comment deadline.<sup>11</sup> All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of this AD investigation.

#### Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

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<sup>11</sup> See 19 CFR 351.303(b).

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,<sup>12</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>13</sup>

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.<sup>14</sup> Based on our analysis of the information submitted on the record, we have determined that vertical shaft engines, as defined

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<sup>12</sup> See section 771(10) of the Act.

<sup>13</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

<sup>14</sup> See Volume I of the Petition, at 16-17; see also General Issues Supplement at 3-5.

in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.<sup>15</sup>

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in the appendix to this notice. To establish industry support, the petitioner provided 2019 shipments of the domestic like product for members of the Coalition.<sup>16</sup> The petitioner estimated the production of the domestic like product for the entire domestic industry based on U.S. shipment data, export data, and its own knowledge of the industry, because shipments and production of vertical shaft engines correlate with one another and shipments are a reasonable proxy for production in the vertical shaft engines industry.<sup>17</sup> The petitioner compared the 2019 shipments of the Coalition to the estimated total shipments of the domestic like product for the entire domestic industry.<sup>18</sup> We relied on data provided by the petitioner for purposes of measuring industry support.<sup>19</sup>

Our review of the data provided in the Petition, the General Issues Supplement, the Second General Issues Supplement, and other information readily available to Commerce

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<sup>15</sup> For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* Antidumping Duty Investigation Initiation Checklist: Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People’s Republic of China (China AD Initiation Checklist) at Attachment II, “Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People’s Republic of China” (Attachment II), dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Commerce building.

<sup>16</sup> *See* Volume I of the Petition, at 2-3 and Exhibits I-5 and I-6; *see also* General Issues Supplement at 6-9 and Exhibits Supp-I-2 and Supp-I-3; and Second General Issues Supplement, at Exhibit Supp-I-2.

<sup>17</sup> *See* Volume I of the Petition, at Exhibit I-6; *see also* General Issues Supplement, at 6-9 and Exhibits Supp-I-2 and Supp-I-3; and Second General Issues Supplement, at Exhibit 2Supp-I-2.

<sup>18</sup> *See* General Issues Supplement, at 6-9 and Exhibits Supp-I-2 and Supp-I-3.

<sup>19</sup> *See* Volume I of the Petition, at 2-3 and Exhibits I-5 and I-6; *see also* General Issues Supplement at 6-9 and Exhibits Supp-I-2 and Supp-I-3; and Second General Issues Supplement, at Exhibit Supp-I-2. For further discussion, *see* China AD Initiation Checklist, at Attachment II.

indicates that the petitioner has established industry support for the Petition.<sup>20</sup> First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).<sup>21</sup> Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.<sup>22</sup> Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.<sup>23</sup> Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.<sup>24</sup>

#### Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>25</sup>

The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share; underselling and price

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<sup>20</sup> See China AD Initiation Checklist, at Attachment II.

<sup>21</sup> See section 732(c)(4)(D) of the Act; *see also* China AD Initiation Checklist, at Attachment II.

<sup>22</sup> See China AD Initiation Checklist, at Attachment II.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> See Volume I of the Petition, at 23-24.



depression or suppression; lost sales and revenues; and a decline in the domestic industry's financial performance and profitability.<sup>26</sup> We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.<sup>27</sup>

#### Allegations of Sales at Less Than Fair Value

The following is a description of the allegation of sales at LTFV upon which Commerce based its decision to initiate an AD investigation of vertical shaft engines from China. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the AD Initiation Checklist.

#### Export Price

The petitioner based export price (EP) on sales offers to customers in the United States for the sale of vertical shaft engines produced in and exported from China.<sup>28</sup> In order to calculate ex-factory U.S. prices, where appropriate, the petitioner made deductions from U.S. prices for foreign inland freight and foreign brokerage and handling.<sup>29</sup>

#### Normal Value

Commerce considers China to be a non-market economy (NME) country.<sup>30</sup> In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an

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<sup>26</sup> See Volume I of the Petition, at 13-15, 22-35 and Exhibits I-5 and I-11 through I-24.

<sup>27</sup> See China AD Initiation Checklist, at Attachment III, "Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Vertical Shaft Engines Between 225cc and 999cc, and Parts thereof from the People's Republic of China" (Attachment III).

<sup>28</sup> See Volume II of the Petition, at 1-2 and Exhibits II-1.

<sup>29</sup> See Volume II of the Petition, at 4-8 and Exhibits II-2, II-4, II-5A, II-5B, II-6, and II-7; see also AD Supplement, at 1 and Exhibits II-Supp-3.

<sup>30</sup> See *Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017), and accompanying Preliminary Decision Memorandum at "China's Status as a

NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat China as an NME country for purposes of the initiation of this investigation. Accordingly, NV in China is appropriately based on FOPs valued in a surrogate market economy country, in accordance with section 773(c) of the Act.<sup>31</sup>

The petitioner claims that Turkey is an appropriate surrogate country for China, because it is a market economy country that is at a level of economic development comparable to that of China and it is a significant producer of comparable merchandise.<sup>32</sup> The petitioner valued direct material inputs and packing materials using Trade Data Monitor, data from the International Energy Agency to value electricity and natural gas, and data from the International Labor Organization to value labor.<sup>33</sup> Based on the information provided by the petitioner, we determine that it is appropriate to use Turkey as a surrogate country for purposes of initiation.<sup>34</sup>

Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs, within 30 days before the scheduled date of the preliminary determination.

#### Factors of Production

Because information regarding the volume of inputs consumed by Chinese producers/exporters were not reasonably available, the petitioner used the product-specific consumption rates of a U.S. vertical shaft engines producer as a surrogate to estimate a Chinese

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*Non-Market Economy,” unchanged in Certain Aluminum Foil from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 83 FR 9282 (March 5, 2018).*

<sup>31</sup> See China AD Initiation Checklist.

<sup>32</sup> See Volume II of the Petition, at 2 and 9 and Exhibits II-8.

<sup>33</sup> *Id.* at Exhibit II-15, Exhibit II-16, Exhibit II-17, Exhibit II-18, and Exhibit II-20.

<sup>34</sup> See China AD Initiation Checklist.

manufacturer's FOPs.<sup>35</sup> The petitioner valued the estimated FOPs using surrogate values from Turkey.<sup>36</sup> The petitioner calculated factory overhead, selling, general and administrative expenses, and profit based on the experience of a Turkish producer of comparable merchandise (*i.e.*, radiators, boilers, heat pumps, motors, and other products).<sup>37</sup>

#### Fair Value Comparisons

Based on the data provided in the Petition, there is reason to believe that imports of vertical shaft engines from China are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV, in accordance with sections 772 and 773 of the Act, the estimated dumping margins for vertical shaft engines from China range from 324.73 percent to 637.73 percent.<sup>38</sup>

#### Initiation of LTFV Investigation

We find that the Petition on vertical shaft engines from China, we find that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an AD investigation to determine whether imports of vertical shaft engines from China are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

#### Critical Circumstances

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<sup>35</sup> *Id.* at 10 and 13 and Exhibits II-10.

<sup>36</sup> *Id.* at 10 and Exhibits II-10.

<sup>37</sup> See Volume II of the Petition, at 16-18 and Exhibits II-21A, II-21B, and II-11; *see also* AD Supplement, at 5-8 and Exhibits II-Supp-11 and II-Supp-21A.

<sup>38</sup> See AD supplement at 2 and Exhibit II-Supp-4; *see also* China AD Initiation Checklist.

The petitioner alleges, based on trade statistics and documented prior knowledge of an impending trade case, that there is a reasonable basis to believe or suspect that critical circumstances exist with regard to imports of vertical shaft engines from China.<sup>39</sup>

Section 733(e)(1) of the Act states that if a petitioner alleges critical circumstances, Commerce will find that such circumstances exist, at any time after the date of initiation, when there is a reasonable basis to believe or suspect that under, subparagraph (A)(i), there is a history of dumping and there is material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) that “there have been massive imports of the subject merchandise over a relatively short period.” Section 351.206(h)(2) of Commerce’s regulations provides that, generally, imports must increase by at least 15 percent during the “relatively short period” to be considered “massive” and section 351.206(i) defines a “relatively short period” as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed)<sup>40</sup> and ending at least three months later.<sup>41</sup> The regulations also provide, however, that if Commerce “finds that importers, or exporters and producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely,” Commerce “may consider a period of not less than three months from that earlier time.”<sup>42</sup>

The petitioner alleges that there is a history of dumping and material injury by reason of dumped imports of vertical shaft engines, and that U.S. importers knew or should have known

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<sup>39</sup> See Volume IV of the Petition, at 1-11.

<sup>40</sup> See 19 CFR 351.102(b)(40) (providing that a proceeding begins on the date of the filing of a petition).

<sup>41</sup> See 19 CFR 351.206(i).

<sup>42</sup> *Id.*

that vertical shaft engines were being sold at LTFV and that there was likely to be material injury by reason of such sales.<sup>43</sup> The petitioner notes that the dumping margins calculated in Volume II of the Petition range from approximately 320% to over 630%, which exceed the 25 percent threshold used by Commerce to impute knowledge of dumping.<sup>44</sup>

The petitioner also asserts that there have been massive imports of vertical shaft engines over a relatively short period. Based on the petitioner's calculation, the imports of engines in the classification that most closely approximates vertical shaft engines surged 35.7 percent between June 2019 through November 2019 against the same period in calendar year 2018.<sup>45</sup> The petitioner chose these base and comparison periods in order to account for seasonality and the unusual circumstances caused by the imposition of 25 percent Section 301 duties, in accordance with 19 CFR 351.206(h)(1)(ii). The petitioner asserts that, because the surge in imports constituted more than a 15 percent change, import volumes of vertical shaft engines are massive, as defined in Commerce's regulations.

The petitioner requests that Commerce make a preliminary finding of critical circumstances within 45 days of the filing of the Petition.<sup>46</sup> Section 732(e) of the Act states that when there is a reasonable basis to believe or suspect (1) there is a history of dumping in the United States or elsewhere of the subject merchandise, or (2) the person by whom, or for whose account, the merchandise was imported knew, or should have known, that the exporter was selling the subject merchandise at LTFV, Commerce may request that U.S. Customs and Border Protection (CBP) compile information on an expedited basis regarding entries of the subject merchandise.

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<sup>43</sup> See Volume IV of the Petition, at 7.

<sup>44</sup> *Id.* at 7-8.

<sup>45</sup> *Id.* at 5-6.

<sup>46</sup> *Id.* at 11.

Taking into consideration the foregoing, we will analyze this matter further. We will monitor imports of vertical shaft engines from China and may request that CBP compile information on an expedited basis regarding entries of subject merchandise.<sup>47</sup> If, at any time, the criteria for a finding of critical circumstances are established, we will issue a critical circumstances determination at the earliest possible date.<sup>48</sup>

### Respondent Selection

The petitioner named 35 companies in China as producers/exporters of vertical shaft engines.<sup>49</sup> In accordance with our standard practice for respondent selection in AD investigations involving NME countries, Commerce selects respondents based on quantity and value (Q&V) questionnaires in cases where it has determined that the number of companies is large and it cannot individually examine each company based upon its resources. After considering the large number of producers and exporters identified in the Petition, and considering the resources that must be used by Commerce to send Q&V questionnaires to all of these companies, Commerce has determined that it does not have sufficient administrative resources to send Q&V questionnaires to all 35 identified producers and exporters. Therefore, Commerce has determined to limit the number of Q&V questionnaires that it will send out to exporters and producers based on CBP data for U.S. imports of vertical shaft engines during the POI under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the “Scope of the Investigation,” in the appendix. Accordingly, Commerce will send Q&V questionnaires to the largest producers and exporters that are identified in the CBP data for which there is address information on the record.

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<sup>47</sup> See section 732(e) of the Act.

<sup>48</sup> See *Change in Policy Regarding Timing of Issuance of Critical Circumstances Determinations*, 63 FR 55364 (October 15, 1998).

<sup>49</sup> See Volume I of the Petition, at Exhibit I-10.

On February 4, 2020, Commerce released CBP data on imports of vertical shaft engines from China under administrative protective order (APO) to all parties with access to information protected by APO, and indicated that interested parties wishing to comment on the CBP data must do so within three business days of the publication date of the notice of initiation of this investigation.<sup>50</sup> We further stated that we will not accept rebuttal comments.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Commerce website at <http://enforcement.trade.gov/apo>.

Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the deadline noted above. Commerce intends to finalize its decisions regarding respondent selection within 20 days of publication of this notice.

In addition, Commerce will post the Q&V questionnaire along with filing instructions on Enforcement and Compliance's website at <http://www.trade.gov/enforcement/news.asp>. In accordance with the standard practice for respondent selection in AD cases involving NME countries, Commerce intends to base respondent selection on the responses to the Q&V questionnaire that it receives.

Producers/exporters of vertical shaft engines from China that do not receive Q&V questionnaires may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from Enforcement & Compliance's website. The Q&V questionnaire

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<sup>50</sup> See Memorandum, "Antidumping Duty Investigation of Certain Vertical Shaft Engines between 225cc and 999cc, and Parts Thereof From the People's Republic of China: Release of U.S. Customs and Border Protection Data," dated February 4, 2020.

response must be submitted by the relevant China exporters/producers no later than February 14, 2020. All Q&V questionnaire responses must be filed electronically via ACCESS.

### Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.<sup>51</sup> The specific requirements for submitting a separate-rate application in a China investigation are outlined in detail in the application itself, which is available on Commerce's website at <http://enforcement.trade.gov/nme/nme-sep-rate.html>. The separate-rate application will be due 30 days after publication of this initiation notice.<sup>52</sup>

Exporters and producers who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that companies from China submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. Companies not filing a timely Q&V questionnaire response will not receive separate rate consideration.

### Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

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<sup>51</sup> See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving Non-Market Economy Countries (April 5, 2005), available at <http://enforcement.trade.gov/policy/bull05-1.pdf> (Policy Bulletin 05.1).

<sup>52</sup> Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that "the Secretary may request any person to submit factual information at any time during a proceeding," this deadline is now 30 days.



{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that Commerce will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of “combination rates” because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.<sup>53</sup>

#### Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the Government of China via ACCESS.

Furthermore, to the extent practicable, Commerce will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

#### ITC Notification

Commerce will notify the ITC of its initiation, as required by section 732(d) of the Act.

#### Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of vertical shaft engines from China are materially injuring or threatening material injury to a U.S. industry.<sup>54</sup> A negative ITC determination will result in the investigation being terminated.<sup>55</sup> Otherwise, this investigation will proceed according to statutory and regulatory time limits.

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<sup>53</sup> See Policy Bulletin 05.1, at 6 (emphasis added).

<sup>54</sup> See section 733(a) of the Act.

<sup>55</sup> *Id.*

### Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Any party, when submitting factual information, must specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted<sup>56</sup> and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.<sup>57</sup> Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Please review the regulations prior to submitting factual information in this investigation.

### Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or

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<sup>56</sup> See 19 CFR 351.301(b).

<sup>57</sup> See 19 CFR 351.301(b)(2).

memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, standalone submission; under limited circumstances Commerce will grant untimely filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting extension requests or factual information in this investigation.

#### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>58</sup> Parties must use the certification formats provided in 19 CFR 351.303(g).<sup>59</sup> Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

#### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Commerce website at <http://enforcement.trade.gov/apo>.

On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (e.g., the filing of letters of appearance as discussed in 19 CFR 351.103(d)).

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<sup>58</sup> See section 782(b) of the Act.

<sup>59</sup> See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at [http://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act,  
and 19 CFR 351.203(c).

Dated: February 4, 2020.

Jeffrey I. Kessler,  
Assistant Secretary  
for Enforcement and Compliance.

## **Appendix**

### **Scope of the Investigation**

The merchandise covered by this investigation consists of spark-ignited, non-road, vertical shaft engines, whether finished or unfinished, whether assembled or unassembled, primarily for riding lawn mowers and zero-turn radius lawn mowers. Engines meeting this physical description may also be for other non-hand-held outdoor power equipment such as, including but not limited to, tow-behind brush mowers, grinders, and vertical shaft generators. The subject engines are spark ignition, single or multiple cylinder, air cooled, internal combustion engines with vertical power take off shafts with a minimum displacement of 225 cubic centimeters (cc) and a maximum displacement of 999cc. Typically, engines with displacements of this size generate gross power of between 6.7 kilowatts (kw) to 42 kw.

Engines covered by this scope normally must comply with and be certified under Environmental Protection Agency (EPA) air pollution controls title 40, chapter I, subchapter U, part 1054 of the Code of Federal Regulations standards for small non-road spark-ignition engines and equipment. Engines that otherwise meet the physical description of the scope but are not certified under 40 CFR part 1054 and are not certified under other parts of subchapter U of the EPA air pollution controls are not excluded from the scope of this proceeding. Engines that may be certified under both 40 CFR part 1054 as well as other parts of subchapter U remain subject to the scope of this proceeding.

For purposes of this investigation, an unfinished engine covers at a minimum a sub-assembly comprised of, but not limited to, the following components: crankcase, crankshaft, camshaft, piston(s), and connecting rod(s). Importation of these components together, whether assembled or unassembled, and whether or not accompanied by additional components such as an oil pan, manifold, cylinder head(s), valve train, or valve cover(s), constitutes an unfinished engine for purposes of this investigation. The inclusion of other products such as spark plugs fitted into the cylinder head or electrical devices (*e.g.*, ignition modules, ignition coils) for synchronizing with the motor to supply tension current does not remove the product from the scope. The inclusion of any other components not identified as comprising the unfinished engine subassembly in a third- country does not remove the engine from the scope.

The engines subject to this investigation are typically classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 8407.90.1020, 8407.90.1060, and 8407.90.1080. The engine subassemblies that are subject to this investigation enter under HTSUS 8409.91.9990. Engines subject to this investigation may also enter under HTSUS 8407.90.9060 and 8407.90.9080. The HTSUS subheadings are provided for convenience and customs purposes only, and the written description of the merchandise under investigation is dispositive.

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